

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>LEANN MARIE BOGGS,</b>	:	<b>CIVIL ACTION NO. 3:16-CV-656</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>NANCY A. BERRYHILL, Acting</b>	:	
<b>Commissioner of Social Security,<sup>1</sup></b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 25th day of September, 2017, upon consideration of the report (Doc. 25) of Magistrate Judge Karoline Mehalchick, recommending the court grant the appeal (Doc. 1) of Leann Marie Boggs (“Boggs”) from the decision of the administrative law judge denying Boggs’ application for a period of disability, disability insurance benefits, and supplemental security income, wherein Judge Mehalchick opines that the inaudibility of vocational testimony concerning Boggs’ ability to perform work in the national economy—a critical inquiry in the five-step sequential evaluation process for disability determinations—inhibits our ability to meaningfully assess whether the administrative law judge’s decision is supported by substantial evidence, and opines further that the amended transcript filed by the Commissioner does not adequately clarify the relevant response, (Doc. 25 at 5-9), and

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<sup>1</sup> Carolyn W. Colvin (“Colvin”) was Acting Commissioner of Social Security when the instant action was filed against her in her official capacity. On January 23, 2017, Nancy A. Berryhill succeeded Colvin as Acting Commissioner. Pursuant to Federal Rule of Civil Procedure 25(d), Nancy A. Berryhill is substituted as the defendant in this action. See FED. R. CIV. P. 25(d).

the court noting that the Commissioner of Social Security (“Commissioner”) objected to the report, (Doc. 28); see FED. R. CIV. P. 72(b)(2), and Boggs filed a response (Doc. 29) thereto, and following a *de novo* review of the contested portion of the report, see Behar v. Pa. Dep’t of Transp., 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(C)), and applying a clear error standard of review to the uncontested portions, see Cruz v. Chater, 990 F. Supp. 375, 376-78 (M.D. Pa. 1999), the court in agreement with Judge Mehalchick that inaudibility of crucial vocational testimony precludes the court from finding that the decision of the administrative law judge is “supported by substantial evidence,” 42 U.S.C. § 405(g); Fagnoli v. Massanari, 247 F.3d 34, 38 (3d Cir. 2001), and finding Judge Mehalchick’s analysis to be thorough, well-reasoned, and fully supported by the record, and further finding the Commissioner’s objection to be without merit and squarely and appropriately addressed by the report, it is hereby ORDERED that:

1. The report (Doc. 25) of Magistrate Judge Mehalchick is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Leann Marie Boggs (“Boggs”) and against the Commissioner of Social Security (“Commissioner”) as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing in accordance with this order and the report (Doc. 25) of Magistrate Judge Mehalchick.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania